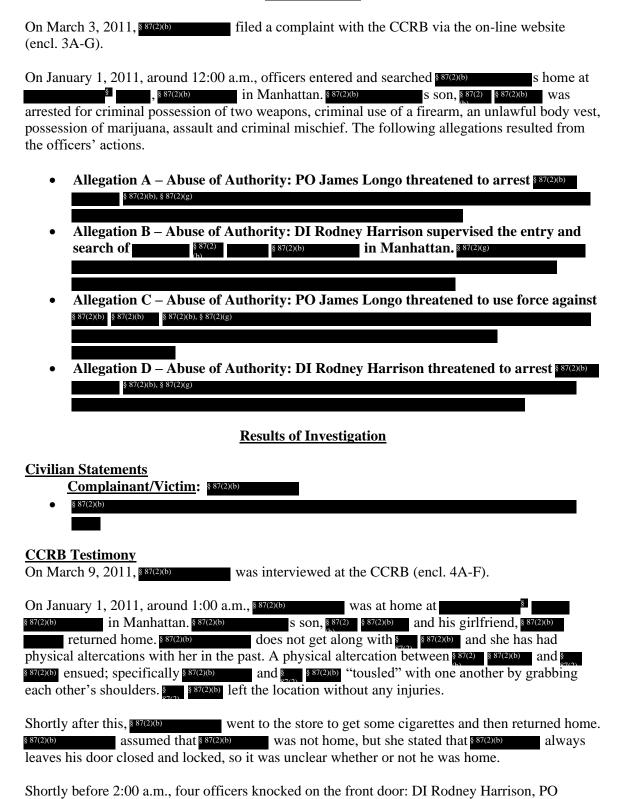
CCRB INVESTIGATIVE RECOMMENDATION

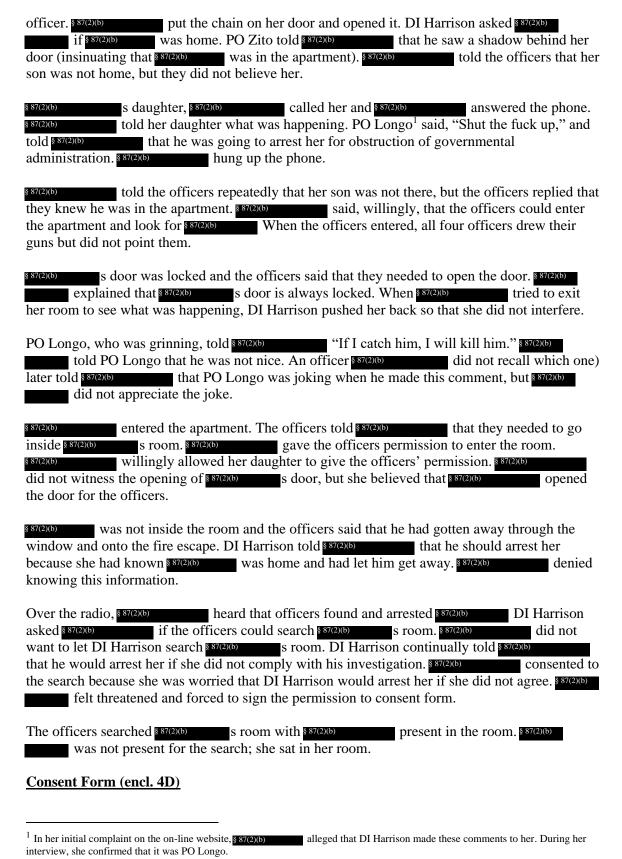
Investigator:		Team:	CCRB Case #:	☐ For	ce	☐ Discourt.	☐ U.S.
Maryann Wong		Team # 2	201102773	☑ Abı	use	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Preci	inct:	18 Mo. SOL	EO SOL
Saturday, 01/01/2011 12:30 AM		§ 87(2)(b)	§ 87 <i>(</i> 2)	28	8	7/1/2012	7/1/2012
Date/Time CV Reported		CV Reported At:	How CV Reported:	Dat	e/Time	Received at CCF	RB
Thu, 03/03/2011 5:42 PM		CCRB	On-line website	Thu	1, 03/03/	/2011 5:42 PM	
Complainant/Victim	Type	Home Addre	SS				
Witness(es)	Witness(es) Home Address						
Subject Officer(s)	Shield	TaxID	Command				
1. DI Rodney Harrison	00000	901066	028 PCT				
2. POM James Longo	31565	932915	028 PCT				
Witness Officer(s)	Shield N	o Tax No	Cmd Name				
1. POM Francis Zito	00022	942746	028 PCT				
2. SGT Roberto Coppola	00903	925116	028 PCT				
Officer(s)	Allegatio	on			Inves	stigator Recon	nmendation
A.POM James Longo	Abuse: PO James Longo threatened to arrest \$87(2)(b)						
B.DI Rodney Harrison	Abuse: DI Rodney Harrison supervised the entry and search of \$87(2)(b) in Manhattan.						
C.POM James Longo	Abuse: PO James Longo threatened to use force against						
D.DI Rodney Harrison	Abuse: DI Rodney Harrison threatened to arrest \$87(2)(b)						

Case Summary

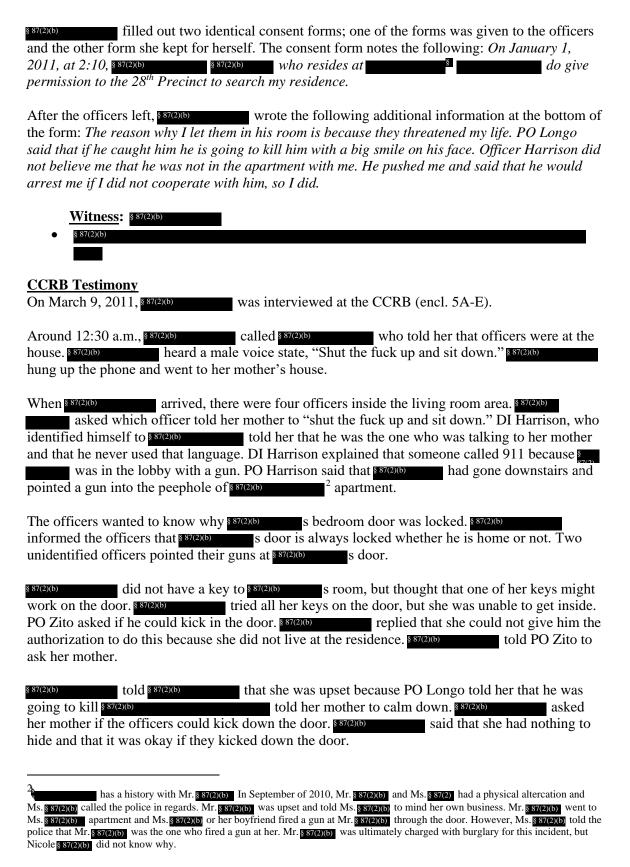


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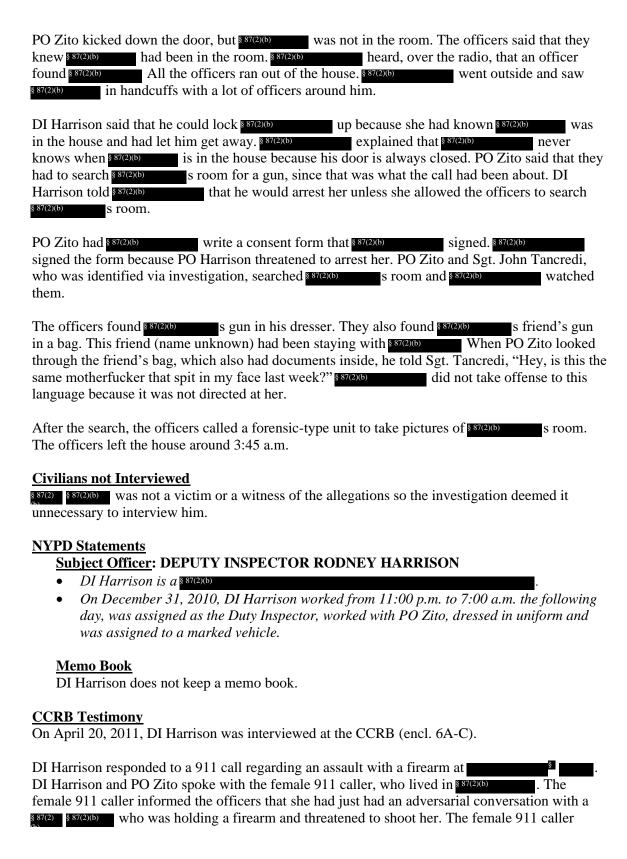
Francis Zito, PO James Longo, all identified via investigation, and a fourth, unidentified male

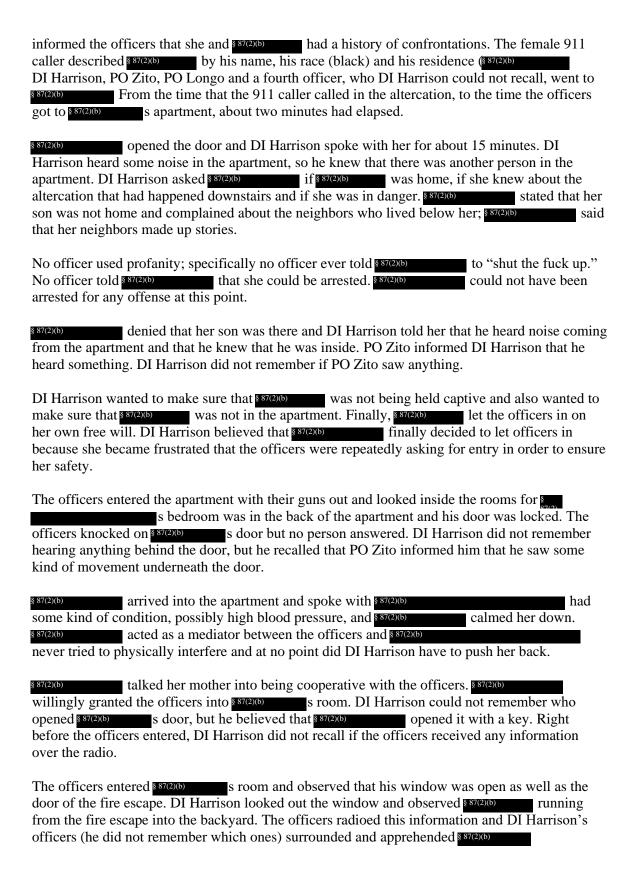


Page 3 **CCRB Case # 201102773**

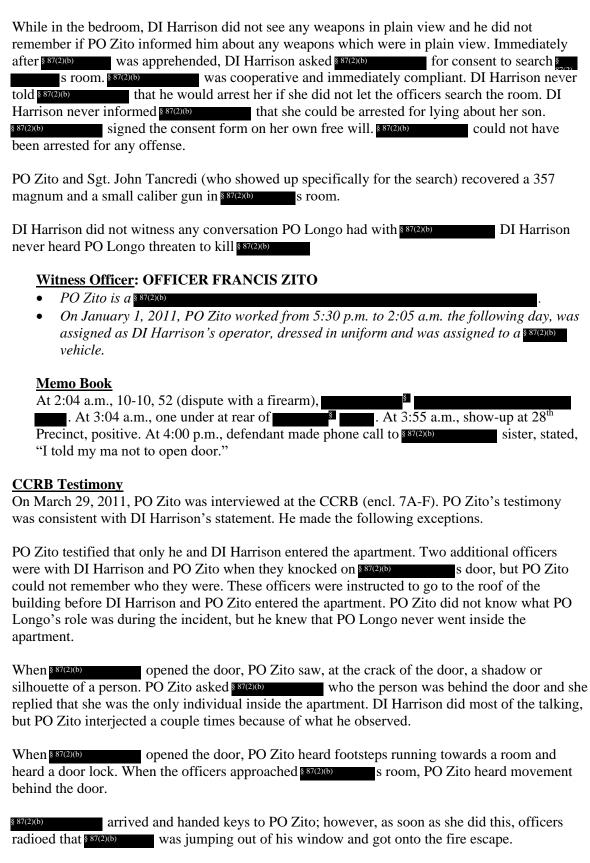


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willingly gave the officers consent to open the door. PO Zito breached the door to the room. PO Zito breached it by himself because the door was not very heavy. PO Zito observed jumping down the fire escape and he radioed this information.

In the room, in plain view, PO Zito observed the shell of a 357 gun bullet on stream s bureau. PO Zito also observed in plain view the butt of a handgun inside the bureau underneath clothes. PO Zito did not know if DI Harrison saw these things, but he informed DI Harrison of this.

PO Zito told \$87(2)(b) what he observed and \$87(2)(b) was in a state of shock. PO Zito and DI Harrison asked \$87(2)(b) for consent to search the room and \$87(2)(b) gave consent on her own free will. DI Harrison never told \$87(2)(b) that he would arrest her if she did not consent. PO Zito did not recall if \$87(2)(b) was told that she could be arrested for lying. However, PO Zito believed that this is an offense that one can be arrested for.

Subject Officer: OFFICER JAMES LONGO

- *PO Longo is a* § 87(2)(b)
- On December 31, 2010, PO Longo worked from 7:00 p.m. to 3:35 a.m. the following day, was assigned to mobile response, worked with Sgt. Roberto Coppola, dressed in uniform and was assigned to a marked van.

Memo Book

PO Longo did not have any memo book entries regarding the incident.

CCRB Testimony

On March 29, 2011, PO Longo was interviewed at the CCRB (encl. 8A-D).

PO Longo did enter the building but he never entered the apartment. PO Longo did see \$87(2)(b) from the hallway of the apartment building, but she never tried to speak to him and he never spoke to her. PO Longo never threatened to arrest \$87(2)(b) he never spoke obscenely to her or threatened to kill her son.

Once PO Long and Sgt. Coppola heard over the radio that [887(2)6] had jumped off the fire escape into the backyard, PO Longo ran downstairs and into the backyard with Sgt. Coppola.

Subject Officer: SERGEANT ROBERTO COPPOLA

- *Sgt. Coppola is a* § 87(2)(b)
- On December 31, 2010, Sgt. Coppola worked from 7:00 p.m. to 3:47 a.m. the following day, was assigned to mobile response, worked with PO Longo, dressed in uniform and was assigned to a marked police van.

Memo Book

At 1:30 a.m., call for assistance at 152 West 118th Street, dispute with a firearm.

CCRB Testimony

On April 29, 2011, Sgt. Coppola was interviewed at the CCRB (encl. 9A-D). Sgt. Coppola was directed by DI Harrison to stand in the outer perimeter of the building and

Sgt. Coppola was directed by DI Harrison to stand in the outer perimeter of the building and make sure that no person exited or entered the building. Sgt. Coppola never entered the building

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or the apartment. He remained outside. Sgt. Coppola was not present when the officers spoke with the female 911 caller. Sgt. Coppola never interacted with \$87(2)(b) PO Longo did not enter the building and remained with Sgt. Coppola the entire time.

Sgt. Coppola was outside for about an hour when officers radioed that \$87(2)(b) the backyard. Sgt. Coppola ran to the backyard and observed the defendant inside a wooden fence, \$87(2)(b) was surrounded by several officers and Sgt. Coppola pulled out his firearm. PO Zito and DI Harrison were also present in the backyard, but Sgt. Coppola did not know where they came from. Sgt. Coppola did not remember where \$87(2)(b) had run from.

Officers not interviewed

The additional officers who were part of the operation did not witness the allegations and their testimonies would not have altered the recommended disposition.

NYPD Documents

Arrest Report (encl. 10A-D)

The arrest report notes that the defendant was found in possession of two loaded firearms, a bullet proof vest and ten bags of marijuana.

Property Vouchers (encl. 11A-C)

The property vouchers note ten bags of marijuana and a bullet proof vest. The vouchers for the firearms are pending and will be added to the case file upon receipt.

\$ 87(2)(b)		
	ı	
Status of Civil Proceedings (en	<u>-</u>	
As of May 2, 2011, § 87(2)(b) to the incident.	and § 87(2)(b)	have not filed a notice of claim in regard
to the merdent.		
§ 87(2)(b)		
	_	
Civilian CCRR History		

This is the first CCRB complaint filed by \$87(2)(b) and § 87(2)(b) (encl. 2C-D).

Subject Officer CCRB History

- PO Longo has been a member of the service for 7 years and there is one substantiated CCRB allegation against him. In case #200606906, an abuse of authority allegation (retaliatory summons) was substantiated for which he received instructions. In that same case, a discourteous word and a discourteous action were substantiated for which the Police Department declined to prosecute (encl. 2A).
- DI Harrison has been a member of service for 17 years and there is one substantiated CCRB allegation against him. In case #200306871, an abuse of authority allegation (premises entered and/or searched) was substantiated for which he received a command discipline (encl. 2B).

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Conclusion

Identification of Subject Officers

- DI Harrison admitted to supervising the entry and search.
- \$87(2)(6) identified PO Longo by looking at the last name, "Longo," on his badge. She also wrote down PO Long's name at the bottom of the consent form. PO Longo fits the description provided of him; he is a white male. Furthermore, although PO Longo testified that he never entered the apartment, DI Harrison testified that PO Longo did enter the apartment.

Allegations not Pled

alleged that, when she got on her phone, PO Longo told her to "shut the fuck up" and get off the phone before he arrested her for obstruction of governmental administration. Given that PO Longo's use of profanity was incident to telling [887(2)(b)] to get off the phone or else be arrested, the discourtesy allegation will be subsumed into Allegation A.

alleged that the officers drew their guns when they entered. \$87(2)(b) further alleged that two officers pointed their guns at \$87(2)(b) s bedroom door. These allegations will be subsumed into Allegation B.

alleged that, when she tried to exit her room to see what was happening, DI Harrison pushed her back so that she did not interfere. Because the officers were attempting to secure the area and ensure the safety of all parties involved, a minimal push would be justifiable and will therefore not be pled.

alleged that, when PO Zito was referring to a male he arrested a week previously, he told Sgt. Tancredi, "Hey, is this the same motherfucker that spit in my face last week?"

§ 87(2)(b)

did not take offense to this language because it was not directed at her. Therefore, this allegation will not be pled.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: PO James Longo threatened to arrest structure testified that, when she got on the phone, PO Longo told her to "shut the fuck up" or else he would arrest her for obstruction of governmental administration. PO Longo and the officers denied this. structure is structured by the structure of the phone, PO Longo and the officers denied this.

Allegation B – Abuse of Authority: DI Harrison supervised the entry and search of in the Bronx.

Allegation D – Abuse of Authority: DI Harrison threatened to arrest

All parties agree that \$87(2)(b) willingly gave DI Harrison consent to enter her apartment and to enter \$87(2)(b) s room. All parties agree that the officers drew their guns upon entry.

However, \$87(2)(b) and \$87(2)(b) testified that \$87(2)(b) did not willingly give DI Harrison consent to search \$87(2)(b) s room, and that \$87(2)(b) s consent was coerced because DI Harrison told her that he would arrest her if she did not cooperate.

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DI Harrison denied threatening to arrest \$87(2)(b) he also stated that he could not arrest willingly consented to the search of \$87(2)(b) s room.
Under the emergency doctrine, according to <u>People v. Mitchell</u> , 39 N.Y.2d 173 (1976) (encl. 1A-F) a police officer can enter premises without a warrant to protect individuals in distress. Under the Exigent Circumstances Doctrine, the police can make a warrantless entry into premises where they seek to gather or seize evidence, and to prevent the imminent use of dangerous weapons.
According to <u>People v. Robinson</u> , 144 A.D.2d 960, 534 (1988) (encl. 1G-H), during a preliminary inspection of the premises, the police may seize evidence or contraband that is in plain view. However, an officer cannot seize a package or a bag when there is nothing incriminating in the outward appearance of these items.
The 911 caller clearly identified \$\frac{\$\frac{87(2)}{2}}{2}\$ as the individual who was holding a firearm and who threatened to shoot her. The police had reasonable suspicion that \$\frac{87(2)(b)}{2}\$ was hiding in and that he was armed and dangerous. Despite the fact that \$\frac{87(2)(b)}{2}\$ did consent to let the officers enter her apartment and to enter \$\frac{87(2)(b)}{2}\$ s room, the officers did not need her consent based on the circumstances.
Following \$\frac{\text{\$87(2)(b)}}{\text{\$10}}\$ s arrest, the officers conducted a search of his bedroom. PO Zito testified that he observed, in plain view, the shell of a gun bullet and the butt of a handgun. DI Harrison did not recall this. In addition, while \$\frac{\text{\$87(2)(b)}}{\text{\$10}}\$ did not see the search, \$\frac{\text{\$87(2)(b)}}{\text{\$10}}\$ testified that the search consisted of looking in \$\frac{\text{\$87(2)(b)}}{\text{\$10}}\$ s dresser and duffle bag. Although the officers would have been justified in confiscating the items in plain view, a full blown search, such as the duffle bag which was searched, would not have been justified without \$\frac{\text{\$87(2)(b)}}{\text{\$10}}\$ s consent or without a search warrant.
§ 87(2)(b), § 87(2)(g)
Allegation C – Abuse of Authority: PO James Longo threatened to use force against \$87(2)(b)
alleged that PO Longo told her, "If I catch [\$87(2)] I will kill him." PO Longo denied interacting with [\$87(2)] and no officer heard him speak these words. The investigation was unable to determine whether PO Longo threatened to use force against [\$87(2)(g)]

Team:		:
Investigator:Signature	Print	Date
Supervisor:Title/Signature	Print	Date
Reviewer:Title/Signature	Print	Date
Reviewer:Title/Signature	Print	Date